

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION**

MARLON D. MILES
ADC #99753

PLAINTIFF

V.

NO: 5:07CV00081 JLH/HDY

SAMUEL BAKER *et al.*

DEFENDANTS

PROPOSED FINDINGS AND RECOMMENDATIONS

INSTRUCTIONS

The following recommended disposition has been sent to United States District Judge J. Leon Holmes. Any party may serve and file written objections to this recommendation. Objections should be specific and should include the factual or legal basis for the objection. If the objection is to a factual finding, specifically identify that finding and the evidence that supports your objection. An original and one copy of your objections must be received in the office of the United States District Court Clerk no later than eleven (11) days from the date of the findings and recommendations. The copy will be furnished to the opposing party. Failure to file timely objections may result in waiver of the right to appeal questions of fact.

If you are objecting to the recommendation and also desire to submit new, different, or additional evidence, and to have a hearing for this purpose before the District Judge, you must, at the same time that you file your written objections, include the following:

1. Why the record made before the Magistrate Judge is inadequate.
2. Why the evidence proffered at the hearing before the District Judge (if such a hearing is granted) was not offered at the hearing before the Magistrate Judge.

3. The detail of any testimony desired to be introduced at the hearing before the District Judge in the form of an offer of proof, and a copy, or the original, of any documentary or other non-testimonial evidence desired to be introduced at the hearing before the District Judge.

From this submission, the District Judge will determine the necessity for an additional evidentiary hearing, either before the Magistrate Judge or before the District Judge.

Mail your objections and "Statement of Necessity" to:

Clerk, United States District Court
Eastern District of Arkansas
600 West Capitol Avenue, Suite A149
Little Rock, AR 72201-3325

DISPOSITION

Plaintiff filed a *pro se* complaint pursuant to 42 U.S.C. § 1983, on April 18, 2007. After an evidentiary hearing, Plaintiff was awarded judgment against Defendant Samuel Baker in the amount of \$1,000.00 (docket entry #89). That judgment was entered on May 29, 2008. On November 14, 2008, Plaintiff filed a motion for contempt, asserting that Baker has failed to pay the judgment (docket entry #91). Although more than 11 days has passed, Baker has not responded. At this time, the Court believes the best course of action is to deny Plaintiff's motion without prejudice, and appoint Plaintiff an attorney to assist him in collecting the judgment he was awarded.

IT IS THEREFORE RECOMMENDED THAT Plaintiff's motion for contempt (docket entry #91) be DENIED, and Oscar Eve Jones IV, of the Jones Law Firm-Batesville, P.O. Box 2662, Batesville, AR 72503-2662, be appointed for the limited purpose of assisting Plaintiff in collecting the judgment he was awarded in this case. The Clerk should enter Mr. Jones's name as the attorney of record for Plaintiff, and should send counsel a copy of this order and a copy of Local Rule 83.7.

The Clerk should also be directed to forward counsel a copy of this file 15 days after the entry of the appointment order.

DATED this 10 day of December, 2008.



UNITED STATES MAGISTRATE JUDGE